

**MINUTES OF THE REGULAR MEETING OF THE TRINIDAD CITY COUNCIL**  
**WEDNESDAY, NOVEMBER 10, 2015**

**I. CALL TO ORDER**

- Mayor Fulkerson called the meeting to order at 6:00PM. Council members in attendance: Miller, West, Fulkerson, Baker, Winnett.
- City Staff in attendance: City Manager Dan Berman, City Clerk Gabriel Adams, City Planner Trever Parker.

**II. PLEDGE OF ALLEGIANCE**

**III. ADJOURNMENT TO CLOSED SESSION**

1. Government Code section 54957: Personnel Review – City Manager Performance Evaluation

**IV. RECONVENE TO OPEN SESSION – *No report.***

**V. APPROVAL OF AGENDA**

*Motion (Miller/West) to approve the agenda as amended, moving #5 on agenda to Consent. **Passed unanimously.***

**VI. APPROVAL OF MINUTES – *June 30, 2015 scc, August 12 cc, August 26 scc, September 09 cc***  
*Motion (West/Miller) to approve as written. **Passed unanimously.***

**VII. COMMISSIONERS REPORTS**

**West:** (HCOAG) HTA is happy to report excellent ridership. Also attended a workshop that discussed State mandated model landscape ordinance, impact on Trinidad homes. The State is also looking at gray water use and the city's website will include tips and suggestions.

**Miller:** Attended the Coastal National Monument meeting.

**Baker:** Announced that Trinidad Museum volunteer Ali Lindgren resigned.

**Fulkerson:** Met with County Librarian and Friends of Library to discuss hiring of a new Trinidad Librarian to replace Kenzie Mullen when she retires this year. Also to discuss funding additional open hours. 32% Checkout rate of library books is one of the highest in the county.

**City Manager Berman:** Highlighted and announced various updates, including:

- Lighthouse permit appeal negotiations.
- City Clerk's office construction update.
- ADA improvements, etc.

**VII: PROCLAMATIONS & ANNOUNCEMENTS – *None.***

**VIII. ITEMS FROM THE FLOOR**

**Kathleen Lake** - Trinidad

Concerned with the draft General Plan language that discusses home businesses and possible conflict with VDU's.

**Tom Davies** – Trinidad

The City received a number of complaints about the party and disturbances at a VDU on Parker Creek Drive this past weekend. Also noted that neighbors of VDU permit holders should be notified as stated in the Ordinance.

**Brent Twoomey** – Trinidad

Alerted the Council of a demonstration forest next to CDF station on Patrick's Point Drive, and encouraged the city to help the Land Trust find funds to secure this property and protect it for visitors and locals to enjoy.

**Pat Morales** – Trinidad

Complained about the party that occurred at Paloma VDU this weekend, and a lost dog that was associated with the rental.

**Jonna Kitchen** – Trinidad

Acknowledged the City Clerk's workload, and concern for meeting minutes not being posted quick enough on the city website. Staff should get more help.

## **PROCLAMATIONS & ANNOUNCEMENTS**

1. Proclamation 2015-03; Great American Smokeout
2. Proclamation 2015-04; In Recognition of Kenzie Mullen for Dedicated Service to the Trinidad Library.

*Motion (Miller/West) to approve the proclamations. Passed unanimously.*

## **IX. CONSENT AGENDA**

1. Financial Status Reports for September 2015.
2. Law Enforcement Report October 2015
3. GHD Scope of Services for the Water Treatment Plant Operations and Maintenance Manual.
4. Master Agreement for City Planning Services with Streamline Planning Consultants.
5. Agreement with Streamline Planning for Services with Coastal Commission LCP Grant Project.

*Motion (Miller/Baker) to approve the consent agenda as amended, moving discussion item 5 to consent. Passed unanimously.*

## **X. DISCUSSION AGENDA**

1. Discussion/Decision regarding Planning Commissioner Appointment.  
Mayor Fulkerson explained that the recent resignation of Commissioner Kathleen Lake has left the Commission with one vacant position for a term through December 2016. As of the Wednesday, November 04 deadline, the City received (3) letters of interest for (1) vacant position from residents Cliff Poulton, Doren Morgan, and Ben Hawkins. The applicants all live in the city limits.

Only one applicant was in attendance, Cliff Poulton. The Council asked Poulton a variety of interview-type questions:

1. What peaked your interest? Poulton explained that the VDU conversation got his attention and he felt he could contribute to that subject.
2. What's the biggest challenge the City currently faces? Poulton responded, VDU policy.
3. How does your background prepare you? Poulton explained that his years in construction, experience in the city process, as well as professional experience in Public Works will help him in this role.
4. Are you ready to sit on the hot seat? Poulton answered, yes.

Council comment included:

**Winnett:** Commented on Poulton's very tasteful, recent Underwood Dr. home remodel.

**Miller:** Met the other candidate at the Trinidad Post Office the other day. He claimed to be a member of the Trinidad Volunteer Fire Dept. He said he was concerned with vacation rentals taking away permanent home opportunities for locals. I'd like to hear from him, and curious why he's not here tonight.

**West:** I'd like to hear from the other applicants as well.

*Motion (Miller/Baker) to table the item to the next meeting and encourage applicants to attend. Passed 4-1. Winnett – NO.*

2. Discussion/Decision regarding HCAOG proposal for a \$30,000 polling study for a Countywide Transportation Tax Measure  
HCOAG Marcella Clem explained that on August 26, 2015, the Humboldt County Association of Governments (HCAOG) hosted a Local Transportation Revenue Option Workshop, which was attended by over 30 community leaders involved in transportation planning, including elected officials, staff from local jurisdictions and Caltrans, and interested community members. A survey performed at the workshop revealed that 79% of the attendees did not believe the state and federal governments would be likely to solve the funding shortfall for local

transportation needs. Further, 83% of attendees supported some sort of county-wide tax measure to fund road maintenance and additional transportation/mobility options. An HCOAG summary of that meeting is attached.

The most recent assessment of transportation infrastructure for Humboldt County resulted in an overall poor grade, with costs needed to improve infrastructure well beyond currently available resources. State and federal funding for transportation infrastructure have been declining steadily.

This would be a special tax requiring a two thirds voter approval. The envisioned proposal for a .025% sales tax would generate roughly \$4.8 Million dollars annually. Recent changes in state transportation funding provide specific benefits to 'self-help' Counties and Regions. This funding would also help provide match to state grant proposals from our region, which increases our scoring in those grant efforts. The funds would be spent in our region, with benefits to local planning, design, and construction firms and employees as well as our transportation infrastructure.

Trinidad is in the unusual position of casting a decisive vote on the HCOAG Board, as the measure will not pass if Trinidad does not support it. Arcata, Eureka, Fortuna, and the County voted yes; Rio Dell, Ferndale, and Blue Lake voted no. HCOAG Director Marcella Clem will be attending our meeting to answer any additional questions.

*Motion (Miller/Baker) to authorize Councilmember Jack West in his capacity as Trinidad's HCOAG representative to vote in favor of the proposal to spend \$30,000 on a polling study to inform a decision about pursuing a County wide sales tax measure for transportation infrastructure funding. **Passed unanimously.***

3. Discussion/Decision regarding Vacation Dwelling Unit Ordinance Implementation, and request for direction regarding Intent for "1-VDU per parcel" language.

City Manager Berman explained that the City received 38 applications for VDU Licenses for the 2015-2016 Fiscal Year. Many of these applications also included OWTS license applications, as an approved OWTS permit is required for a VDU License. Applications were received at the height of the vacation rental season, and staff decided to allow applicants to proceed in operating their VDUs while the City reviewed the applications. Of the thirty-eight applications received, twenty eight VDU licenses have been granted at this time. City staff is working with the remaining ten applicants to resolve a variety of issues, some small and some major.

**Enforcement:** The majority of staff effort to date has gone to processing the applications and working through the challenges therein. A number of the VDUs have not received licenses as a result of potential compliance problems, thus the licensing itself is a primary mechanism in achieving compliance. Staff's goal is to work cooperatively with applicants to implement the ordinance. We have recently issued letters to three applicants who have more significant issues to address requiring that they cease any VDU Operation until they can be issued a license.

Many VDUs are not in compliance with the sign requirements in the ordinance. Staff have provided initial notification with the licenses, and will be following up. Staff's goal is to have the remaining ten applicants either fully licensed, or formally noticed to halt operations until they are fully licensed, by the next Council meeting of December 9<sup>th</sup>.

**Council Intent Regarding the '1 VDU per Parcel' condition:** One enforcement issue of contention revolves around the Ordinance language that states *"There shall be no more than one VDU per parcel."* While the sentence itself is clear, the Ordinance's definition of a VDU is less so:

*"Vacation Dwelling Unit" (VDU) means any structure, accessory structure, or portion of such structures, which is contracted for transient use. As used in this Section, the definition of "Vacation Dwelling Unit" encompasses any structure or any portion of any structure which is occupied or intended or designed for occupancy by tourists for dwelling, lodging or sleeping purposes, and includes any home or house, tourist home or house, mobile home or house trailer at a fixed location except when located within a mobile home park or RV park, or other similar structure or portion thereof. "Vacation Dwelling Unit" does not include home exchanges or a short-term rental one time in a calendar year."*

The interpretation question arises where a single parcel has multiple legal dwelling units, like a duplex, or a main house and a detached 'mother in law' unit. VDU license applicants have proposed that their 'single VDU' encompass multiple legal dwelling units on the same parcel.

Staff believes the simplest reading of 'one VDU per parcel' is that for a parcel with multiple legal dwelling units, only one of them can be used as a VDU. So only one unit of a duplex could be a VDU, or for homes with detached MIL units, the operator would need to license either the main house or the smaller unit.

This interpretation is consistent with the discussions of the Council about impacts to neighbors, as this would reduce the number of VDU guests allowed on a parcel, with all that implies for parking, noise, and other impacts. This interpretation is also consistent with the concerns the Council have expressed about the loss of long term housing as a consequence of homes being converted to VDUs. However, the City Manager and City Planner have not been confident that the definition of a VDU in the Ordinance prohibits a 'single VDU' from encompassing both the main house and a second (or third unit). Rights not expressly limited are retained by the property owner, and staff have been concerned about triggering a legal challenge if our interpretation, and subsequent enforcement, go beyond what is clearly stated in the Ordinance.

There are two issues – what to do in the short term under the existing language, and whether to amend the Ordinance to be more clear.

First - Staff need to know which of these outcomes the Council wants:

A. Should the ordinance clearly limit a VDU to a single detached legal dwelling unit? In this case any other legal dwelling units on the parcel could not be part of, or operated together with, the VDU in any way. Nor could they be a separate VDU.

OR

B. Should the ordinance allow multiple legal dwelling units on a lot to be operated as one VDU? So the 'one VDU' can consist of both sides of a duplex, or both the front house and back unit on a single parcel.

Whichever option Council indicates, staff believes the VDU definition in the Ordinance should be amended to provide a clear and defensible basis to accomplish the Council's intent. Your direction on this issue then goes to the Planning Commission as part of the ordinance amendment process they are engaged in.

Until the ordinance is revised, staff is actively working with our City Attorney to ensure that our interpretation is soundly based in the existing ordinance language, and therefore minimizes legal risk to the City. The City Attorney has recently provided the following guidance to staff:

- A. The VDU definition is clearly about a single structure;**
- B. Therefore the City should not allow a 'single VDU' to encompass two detached dwelling units,**
- C. But a duplex (as a single structure) could have both units treated as a single VDU (if truly managed as such)**

Public comment included:

**Tom Davies** – Trinidad

It doesn't matter what the structure is. Why do you need to answer A or B as indicated in the staff report? It should say "only one unit on a single property". If a duplex could be all used as one VDU, it takes away affordable housing options.

**Mike Reinman** – RCVR Owner, Trinidad property owner

Responded briefly to complaints about Parker Creek rental, and argued that any comment stating that a second unit on a property would become "affordable" housing is false.

**Pat Morales** – Trinidad

Has anyone asked the Coastal Commission for an interpretation? Events should be held at the Town Hall, not at vacation rentals. The Planner and Manager were paid to write this ordinance. Why were they not confident in their own language? The citizens are paying for these amendments and mistakes.

**Leslie Farrar** – Trinidad

One VDU per parcel is reasonable. Enforcement is a problem, and occupancy taxes should fund these issues, not be spent on other things.

**Don Allan** – Trinidad

Curious if members of the Council have a conflict of interest? No more than one VDU per parcel, period, and rentals shouldn't be allowed in residential areas.

**Cliff Poulton** – Trinidad

If language says one VDU per parcel, then there should only be one rental unit on the property.

**Kathleen Lake** – Trinidad

Handed out a letter showing properties on Ocean Avenue that had more than one unit. Only one VDU per parcel should be allowed. Stated that second units could be affordable housing for residents.

**Dan & Dorothy Cox** – Trinidad

Supports only one VDU per parcel. Concerned about septic and parking overload.

**Jonna Kitchen** – Trinidad

Would have been good to have the attorney here tonight. I manage a VDU with a second unit that has never been rented. Argued that 1) you can't control rental rates and 2) you can't guarantee that if a second unit exists, it will be used as a long-term rental. Assuming that Pleasantville will occur if only one VDU per parcel allowed is ridiculous.

Council comments included:

**Baker:** Dwelling units are defined in the ordinance. A separate detached bedroom is not considered a dwelling unit. I agree with the one VDU per parcel interpretation.

**Miller:** The attorney says that a duplex could be considered one VDU. I would support choice A and not allow a separate unit, or not more than one in a duplex or multi-unit complex.

**West:** Enforcement of choice B is very difficult.

**Fulkerson:** One VDU PER PARCEL.

*Motion (Miller/Winnett) to communicate to the Planning Commission that the intent of one VDU per parcel is to clearly limit a VDU to a single detached legal dwelling unit, and that any other legal dwelling unit on the parcel could not be part of, or operated together with, the single permitted VDU in any way. Nor could they be a separate VDU. Passed 4-0-1. Baker - Abstained.*

4. Annual Unmet Transit Needs Hearing.

Each year HCAOG conducts citizen participation process to assess unmet transit needs within Humboldt County. The public is invited during this hearing to express their opinion, solutions, complaints, or suggestions regarding Humboldt County's public transportation systems and/or general unmet transit needs.

Public comment included:

**Don Allan** – Trinidad Area Resident

Used this as an opportunity to plug the Little River Trail project.

*Comment will be forwarded to HCAOG.*

5. Discussion/Decision regarding Amendments to the Redwood Coast Energy Authority JPA to Facilitate the Development of a Community Choice Aggregation Program.

*Moved to consent calendar for approval.*

6. Discussion/Decision to send letter to the Coastal Commission encouraging protection of Scenic Views as a condition of the proposed Homan Subdivision on Stagecoach Road.

City Manager Berman explained that a coastal development permit for a 6 lot subdivision fronting Stagecoach Rd. and Anderson Lane has been approved by the County Planning Commission, upheld upon appeal to the Board of Supervisors, and is now being appealed to the California Coastal Commission. One of the appellants are requesting that the City send a letter to the Coastal Commission as follows:

*Whereas the views from Trinidad Head and coastal points south are of unique national significance, and important to the City's tourism economy, we hereby request the California Coastal Commission to require modifications to the subdivision that will fully protect the natural unbroken forested character of this ridgeline in all public coastal viewpoints including Trinidad Head and coastal points south.*

The Board of Supervisors recently heard the appeal of the Planning Commission decision, and while denying the appeal, they did approve additional conditions related to views. The appellants would like the City Council to weigh in on the importance of the viewshed from Trinidad Head.

Public comment included:

**Robert Vogel** – Trinidad Area Resident

Explained that he and a number of area residents are appealing the Homan Subdivision – approved by the County – to the Coastal Commission. He presented a slideshow outlining his group's arguments and grounds for the appeal, focusing on the view shed and alternatives to protect impacts to it.

**Peter Martin** – Trinidad Area Resident

Member of Friends of College Cove (FOCC)

The visual impacts are unacceptable to FOCC. The Board of Supervisors and Planning Commission didn't understand the visual implications. Both agencies are pro-development. We won't accept further damage to the hillsides. A letter of support from the City will have significant affect on the outcome we desire.

**Steve Saunders** – Trinidad

I support FOCC.

**Charles Netzwow, Kate Green, Nina Groth** – Trinidad Area Resident

All support FOCC and the appeal.

**Kim Tays** – Arcata

Support FOCC and the appeal.

Council comment included:

**Baker:** In favor of sending the letter.

*Motion (Miller/West) to a) send the letter with the statement italicized in the staff report, and b) recommend the Commission consider FOCC alternative that preserves the treescape on the affected ridgeline. **Passed unanimously.***

*Robert Vogel explained that the letter needed to be sent immediately and City Manager agreed to email it to appropriate agency after the meeting adjourned.*

### **XIII. ADJOURNMENT**

- **Meeting ended at 9:40pm.**

**Submitted by:**

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**Gabriel Adams**  
City Clerk

**Approved by:**

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**Julie Fulkerson**  
Mayor